

vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

VETERANS TRICARE CHOICE ACT OF 2016

Mr. SMITH of Nebraska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5458) to provide for coordination between the TRICARE program and eligibility for making contributions to a health savings account, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans TRICARE Choice Act of 2016”.

SEC. 2. COORDINATION BETWEEN TRICARE PROGRAM AND ELIGIBILITY TO MAKE CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS.

(a) *IN GENERAL.*—Section 223(c)(1)(B) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) coverage under the TRICARE program under chapter 55 of title 10, United States Code, for any period with respect to which an election is in effect under section 1097e of such title providing that the individual is ineligible to be enrolled in (and receive benefits under) such program.”.

(b) *PROVISIONS RELATING TO ELECTION OF INELIGIBILITY UNDER TRICARE.*—

(1) *IN GENERAL.*—Chapter 55 of title 10, United States Code, is amended by inserting after section 1097d the following new section:

“§ 1097e. TRICARE program: election of eligibility

“(a) *ELECTION.*—Beginning January 1, 2017, a TRICARE-eligible individual may elect at any time to be ineligible to enroll in (and receive any benefits under) the TRICARE program.

“(b) *CHANGE OF ELECTION.*—(1) If a TRICARE-eligible individual makes an election under subsection (a), the TRICARE-eligible individual may later elect to be eligible to enroll in the TRICARE program. An election made under this subsection may be made only during a special enrollment period.

“(2) The Secretary shall ensure that a TRICARE-eligible individual who makes an election under subsection (a) may efficiently enroll in the TRICARE program pursuant to an election under paragraph (1), including by maintaining the individual, as appropriate, in the health care enrollment system under section 1099 of this title in an inactive manner.

“(c) *PERIOD OF ELECTION.*—If a TRICARE-eligible individual makes an election under subsection (a), such election shall be in effect beginning on the date of such election and ending on the date that such individual makes an election under subsection (b)(1) to enroll in the TRICARE program.

“(d) *HEALTH SAVINGS ACCOUNT PARTICIPATION.*—(1) For provisions allowing participation in a health savings account in connection with coverage under a high deductible health plan during the period that the election under subsection (a) is in effect, see section 223(c)(1)(B)(iv) of the Internal Revenue Code of 1986.

“(2) The Secretary shall submit to the Commissioner of Internal Revenue the name of, and

any other information that the Commissioner may require with respect to, each TRICARE-eligible individual who makes an election under subsection (a) or (b), not later than 90 days after such election, for purposes of determining the eligibility of such TRICARE-eligible individual for a health savings account described in paragraph (1).

“(e) *RECORDS.*—The Secretary shall ensure that a TRICARE-eligible individual who makes an election under subsection (a) is maintained on the Defense Enrollment Eligibility Reporting System, or successor system, regardless of whether the individual is eligible for the TRICARE program during the period of such election.

“(f) *PROVISION OF INFORMATION.*—The Secretary shall provide to each TRICARE-eligible individual who seeks to make an election under subsection (a) information regarding—

“(1) health savings accounts in connection with coverage under a high deductible health plan described in subsection (d)(1), including a comparison of such health saving accounts and the health care benefits the individual is eligible to receive under the TRICARE program; and

“(2) changing such an election under subsection (b)(1).

“(g) *ANNUAL REPORT.*—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the congressional defense committees a report on elections by TRICARE-eligible individuals under this section that includes the following:

“(1) The number of TRICARE-eligible individuals, as of the date of the submittal of the report, who are ineligible to enroll in (and receive any benefits under) the TRICARE program pursuant to an election under subsection (a).

“(2) The number of TRICARE-eligible individuals who made an election described under subsection (a) but, as of the date of the submittal of the report, are enrolled in the TRICARE program pursuant to a change of election under subsection (b).

“(h) *DEFINITIONS.*—In this section:

“(1) The term ‘TRICARE-eligible individual’ means an individual who is—

“(A) eligible to be a covered beneficiary entitled to health care benefits under the TRICARE program (determined without regard to this section); and

“(B) not serving on active duty in the uniformed services.

“(2) The term ‘special enrollment period’ means the period in which a beneficiary under the Federal Employees Health Benefits program under chapter 89 of title 5 may enroll in or change a plan under such program by reason of a qualifying event or during an open enrollment season. For purposes of this section, such qualifying events shall also include events determined appropriate by the Secretary of Defense, including events relating to a member of the armed forces being ordered to active duty.”.

(2) *CONFORMING AMENDMENT.*—The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1097d the following new item:

“1097e. TRICARE program: election of eligibility.”.

(c) *EFFECTIVE DATE.*—The amendments made by subsection (a) shall apply to months beginning after December 31, 2016.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. SMITH) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska.

GENERAL LEAVE

Mr. SMITH of Nebraska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days

within which to revise and extend their remarks and include extraneous material on H.R. 5458, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. SMITH of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5458, the Veterans TRICARE Choice Act of 2016. This legislation, introduced by the gentleman from Utah (Mr. STEWART), addresses a gap in current law which prevents veterans and their families with TRICARE coverage who also choose to participate in a high-deductible health plan from utilizing a health savings account, or HSA.

While veterans or their family members who participate in TRICARE may also have private health insurance coverage, including high-deductible plans, they are prohibited from contributing to an HSA affiliated with a high-deductible plan. In order to contribute to an HSA under current law, an individual must permanently renounce their TRICARE eligibility because no mechanism to allow reenrollment currently exists.

H.R. 5458 addresses this issue by allowing certain TRICARE-eligible individuals to voluntarily pause their TRICARE coverage for a period of time in which they choose to contribute to an HSA. The bill also creates special enrollment periods should these individuals choose to reenroll in TRICARE at a later date.

Our veterans devoted their lives to defending our freedoms. We should not allow arbitrary, bureaucratic obstacles to stop them from making the best healthcare choices for themselves and their families. This bill creates a mechanism to improve veterans' health coverage options and provides them greater opportunities to save toward their own healthcare needs. It also ensures patients can be more engaged in their own care while eliminating the inconsistency in our Tax Code.

I applaud the gentleman from Utah (Mr. STEWART) for bringing us this good idea today. I urge support.

Mr. Speaker, I reserve the balance of my time.

COMMITTEE ON ARMED SERVICES,

HOUSE OF REPRESENTATIVES,

Washington, DC, November 17, 2016.

Hon. KEVIN BRADY,

Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I write concerning H.R. 5458, the Veterans TRICARE Choice Act of 2016, which was referred to the Committee on Armed Services. There are certain provisions in the bill that fall within the Rule X jurisdiction of the Committee on Armed Services.

In order to expedite this legislation for floor consideration, the Committee on Armed Services will forgo action on this bill. This decision is conditional on our mutual understanding that forgoing consideration in no way diminishes or alters the jurisdictional interests of the Committee on Armed

Services in this bill, any subsequent amendments, or similar legislation. I request you urge the Speaker to appoint members of the Committee on Armed Services to any conference committee convened to consider such provisions.

Please place a copy of this letter and your response acknowledging our jurisdictional interest into the Congressional Record during consideration of the measure on the House floor.

Sincerely,

WILLIAM M. "MAC" THORNBERRY,
Chairman.

COMMITTEE ON WAYS AND MEANS,

HOUSE OF REPRESENTATIVES,

Washington, DC, November 28, 2016.

Hon. WILLIAM M. "MAC" THORNBERRY,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR CHAIRMAN THORNBERRY, Thank you for your letter regarding H.R. 5458, the "Veterans TRICARE Choice Act." As you noted, the Committee on Armed Services was granted an additional referral on the bill.

I am most appreciative of your decision to waive formal consideration of H.R. 5458 so that it may proceed expeditiously to the House floor. I acknowledge that although you waived formal consideration of the bill, the Committee on Armed Services is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bill that fall within your Rule X jurisdiction. I would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

I will include a copy of our letters in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,

KEVIN BRADY,
Chairman.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

While we are here today to debate H.R. 5458, which focuses on one small part of the transition for veterans completing their service and entering the civilian workforce, I wish to take a moment to reflect on a broader issue.

While many veterans enter the workforce, and some may even be offered a health savings account as part of their insurance coverage, many millions depend on Medicare and Medicaid. Now, we in the Congress can't forget the role these programs play in caring for our veterans and their loved ones as they return to the workforce, as they age, or as they live with disabilities.

For more than four decades, Medicare and Medicaid have helped Americans from all walks of life by improving their financial and health security; but if you have been paying attention to the news lately, you know these programs are under grave risk next year with a new Congress and a new President.

As we speak today to honor veterans' service to our country, we must also think about the safety net that has been in place for many years to offer security. For example, today, nearly 1 in 10 veterans lacks health insurance at all. More than 340,000 uninsured veterans and their spouses live in States that have chosen not to expand Medicaid to cover more residents. If those

States offered coverage, these veterans would have insurance if we really cared about them—but their Governors apparently don't.

In Florida, more than 55,000 veterans and their spouses would be Medicaid eligible had the State chosen to cover individuals earning less than \$21,000 a year. In North Carolina, 32,000 veterans and their spouses, and in Texas 67,000 veterans and their spouses would be eligible. But their Governors saw fit not to care.

Slashing Medicare funding by more than \$1 trillion, as Speaker RYAN has proposed, is not a way to help veterans. Yet that is what will be in store next year. That is what people are talking about as what we are going to do in the new year. Turning Medicare into a capped voucher, privatizing the program, shifting more costs on beneficiaries, won't help either.

Now back to the bill at hand. For veterans who are receiving coverage through TRICARE, using employer coverage that offers health savings accounts coupled with high-deductible health plans can cause a problem. Under present law, eligibility for TRICARE coverage disqualifies a retiree from HSA eligibility because the TRICARE program is not a high-deductible plan. This, I believe, is a good thing, and it keeps health care affordable for veterans, especially those who do not have the option for other coverage.

While there is a difference of opinion in the committee on tax-preferred health accounts, the legislation recognizes that some veterans may have that coverage and could run afoul of current law because of enrollment in TRICARE. H.R. 5458 would provide that military retirees may disclaim their eligibility for the TRICARE program. This would allow a retiree who enrolled in a high-deductible health plan to receive or make HSA contributions.

When we considered this bill in the Committee on Ways and Means, the Department of Defense as well as the House Committee on Armed Services had some concerns with the approach in this bill, in particular, that TRICARE eligibility is a statutory entitlement that cannot be waived. If the NDAA conference language is passed later this week, this legislation will no longer be needed as TRICARE enrollment will be voluntary and retirees can move between employer-sponsored insurance and TRICARE, depending on which coverage is best for their current needs. In other words, this bill is going to last about 3 days, until we pass the NDAA on Friday and it is signed into law.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Nebraska. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. STEWART), the author of this bill.

Mr. STEWART. Mr. Speaker, I thank the gentleman from Nebraska for the opportunity to speak on behalf of my

bill, the Veterans TRICARE Choice Act.

Mr. Speaker, it was my honor to serve for 14 years as a pilot in the Air Force, and for my family—my wife, my children, and me—those were some of the best years of our lives. I continue to be amazed at the quality of those who serve in our military. It shouldn't become cliché to say this: These are some of the finest young men and women that our country has ever produced; they are strong, intelligent, dedicated, courageous individuals who choose to use their talents to serve the rest of us.

It makes me uncomfortable sometimes when I hear those of us who serve in Congress being called public servants when we know that the true public servants are the airmen, the seamen, the soldiers, the marines—and their families; let's not forget their families and their sacrifice as well—those who spend their careers either fighting abroad or preparing for that eventuality. As Americans, we should make it a habit to always thank these servicemembers whenever we see them.

As Members of Congress, it is our job to be wise in our foreign policy, to give our warfighters the resources they need to win and then to ensure that veterans receive the benefits that we have promised them. In fact, that third responsibility is the genesis for this bill, fixing a glitch that was brought to my attention.

As the gentleman has said already, it is just a glitch, just a loophole in the current law that was brought to my attention by a group of airline pilots. These pilots, many of whom are veterans, realized that, as veterans, they were unable to take advantage of all the healthcare benefits offered by their civilian employers. Many of them wanted to use HSAs but, because of the TRICARE eligibility, were legally unable to do that.

Mr. Speaker, HSAs are an innovative healthcare option that House Republicans have advanced as an important part of a market-driven, affordable healthcare system. In fact, HSAs are a critical component to the Speaker's Better Way agenda, which I think many of us are excited to see signed into law in the coming months. With that in mind, it makes no sense to lock veterans out of this benefit based on eligibility for TRICARE.

These pilots came to my office and had a simple request: Give us an on-off switch for TRICARE so the veterans who wish to use an HSA while retaining their right to return to TRICARE in the future can do that if they choose. It made sense, so that is what we did with this bill. The Veterans TRICARE Choice Act allows a veteran to suspend his or her TRICARE benefits for the purpose of enrolling in a health savings plan. If, for whatever reason, the veteran wishes to return to TRICARE, he or she can do so. It is a simple, commonsense fix with broad, bipartisan support.

I would like to thank Representative TULSI GABBARD, a fellow veteran with a distinguished career in the United States Navy and a current member of the Hawaiian National Guard. Representative GABBARD and I have been fortunate to work together on this bill for almost 3 years now, and I am grateful for her work to bring this bill to this point.

I would also like to thank Chairman BRADY, Chairman THORNBERRY, Chairman TIBERI, Chairman HECK, and each of their staffs for their great work and their support in refining the bill and bringing it to the floor today. I am grateful for a similar measure that will be included in the National Defense Authorization Act we will be voting on later this week.

Finally, I would like to thank Nathaniel Johnson, a former member of my staff, a member of the Utah National Guard, a former combat medic who served in Afghanistan, and of course we called him Doc then. I would like to thank Doc, who felt compelled to see this bill through to its conclusion.

Mr. Speaker, our veterans deserve our most profound gratitude. Nothing about their military service should prevent them from accessing the same benefits as their nonveteran coworkers. The very least we can do for them is ensure they receive the benefits we promised them and that the process goes forward as smoothly as possible. I recognize we have lots to do on that front, but I am hopeful the passage of this bill will be one small step forward in that direction.

Mr. Speaker, I urge a "yes" vote.

Mr. McDERMOTT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii (Ms. GABBARD).

Ms. GABBARD. Mr. Speaker, the problem that this bill seeks to solve for our veterans is, unfortunately, not uncommon. I have heard from many of my fellow veterans, as has previously been explained, who have similarly not been able to access options widely available to their civilian coworkers because of the current limitations in the law; and that is what this bill seeks to do: correct it.

The Veterans TRICARE Choice Act simply gives veterans and their dependents a choice: They can opt out of TRICARE and contribute to a health savings account with more flexibility and coverage options without fear of permanently losing their TRICARE coverage; and if their situation later changes, they will have the option to reenroll in TRICARE coverage, plain and simple.

Our veterans and their families make tremendous sacrifices in service to our country, and that service should never limit their access to quality health care and their ability to make their own decisions about their own health and the health care for their families in the future.

I would like to thank and congratulate my friend and colleague, CHRIS

STEWART, for his leadership on pushing this issue forward, and I encourage my colleagues to join us in supporting H.R. 5458 today.

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Mr. SMITH of Nebraska. Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this bill is one of those things that you fill time with, and I guess it is not going to hurt anything. So I would recommend that all of my colleagues vote for it. It will be moot on Friday, when we pass the NDAA.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take a moment to again thank Mr. STEWART for his efforts. This is a good bill that, as the gentlewoman from Hawaii mentioned, will help many folks—certainly, those that she has heard from and I know others have as well. I support more veterans having more options. I support the bill's passage and urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 5458, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RESPONSE ACT OF 2016

Mr. DENHAM. Mr. Speaker, I move to suspend the rules and pass the bill (S. 546) to establish the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation (RESPONSE) Subcommittee under the Federal Emergency Management Agency's National Advisory Council to provide recommendations on emergency responder training and resources relating to hazardous materials incidents involving railroads, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "RESPONSE Act of 2016".

SEC. 2. RAILROAD EMERGENCY SERVICES PREPAREDNESS, OPERATIONAL NEEDS, AND SAFETY EVALUATION SUBCOMMITTEE.

Section 508 of the Homeland Security Act of 2002 (6 U.S.C. 318) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) RESPONSE SUBCOMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of the RESPONSE Act of 2016, the Administrator shall establish, as a subcommittee of the National Advisory Council, the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation Subcommittee (referred to in this subsection as the 'RESPONSE Subcommittee')."

"(2) MEMBERSHIP.—Notwithstanding subsection (c), the RESPONSE Subcommittee shall be composed of the following:

"(A) The Deputy Administrator, Protection and National Preparedness of the Federal Emergency Management Agency, or designee.

"(B) The Chief Safety Officer of the Pipeline and Hazardous Materials Safety Administration, or designee.

"(C) The Associate Administrator for Hazardous Materials Safety of the Pipeline and Hazardous Materials Safety Administration, or designee.

"(D) The Director of the Office of Emergency Communications of the Department of Homeland Security, or designee.

"(E) The Director for the Office of Railroad, Pipeline and Hazardous Materials Investigations of the National Transportation Safety Board, or designee.

"(F) The Chief Safety Officer and Associate Administrator for Railroad Safety of the Federal Railroad Administration, or designee.

"(G) The Assistant Administrator for Security Policy and Industry Engagement of the Transportation Security Administration, or designee.

"(H) The Assistant Commandant for Response Policy of the Coast Guard, or designee.

"(I) The Assistant Administrator for the Office of Solid Waste and Emergency Response of the Environmental Protection Agency, or designee.

"(J) Such other qualified individuals as the co-chairpersons shall jointly appoint as soon as practicable after the date of the enactment of the RESPONSE Act of 2016 from among the following:

"(i) Members of the National Advisory Council that have the requisite technical knowledge and expertise to address rail emergency response issues, including members from the following disciplines:

"(I) Emergency management and emergency response providers, including fire service, law enforcement, hazardous materials response, and emergency medical services.

"(II) State, local, and tribal government officials.

"(ii) Individuals who have the requisite technical knowledge and expertise to serve on the RESPONSE Subcommittee, including at least 1 representative from each of the following:

"(I) The rail industry.

"(II) Rail labor

"(III) Persons who offer oil for transportation by rail.

"(IV) The communications industry.

"(V) Emergency response providers, including individuals nominated by national organizations representing State and local governments and emergency responders.

"(VI) Emergency response training providers.

"(VII) Representatives from tribal organizations.

"(VIII) Technical experts.

"(IX) Vendors, developers, and manufacturers of systems, facilities, equipment, and capabilities for emergency responder services.

"(iii) Representatives of such other stakeholders and interested and affected parties as the co-chairpersons consider appropriate.

"(3) CO-CHAIRPERSONS.—The members described in subparagraphs (A) and (B) of paragraph (2) shall serve as the co-chairpersons of the RESPONSE Subcommittee.

"(4) INITIAL MEETING.—The initial meeting of the RESPONSE Subcommittee shall take place not later than 90 days after the date of enactment of the RESPONSE Act of 2016.